

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

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| THE CITY OF PHILADELPHIA | CIVIL ACTION |
| v. | NO. 17-3894 |
| JEFFERSON BEAUREGARD SESSIONS III, ATTORNEY GENERAL OF THE UNITED STATES | |

PRETRIAL ORDER

Following discussion at a pretrial conference this date on a number of issues pertaining to the trial beginning on Monday, April 30, 2018, and after review of the pending motion for summary judgment filed by the Defendant (ECF 155) and a motion for partial summary judgment by the City of Philadelphia (ECF 157), it is now this 26th day of April, 2018, **ORDERED** as follows:

1. The Defendant's motion for summary judgment as to Counts I, II and III of the Amended Complaint is **DENIED**.
2. The Court concludes that both parties' motions rely on arguments that were made at the hearing on the motion for preliminary injunction and that the ruling that the Court made at that time should be confirmed at this time, as to two of the Challenged Conditions (prison access and advance notice).
3. Therefore, Plaintiff's motion for partial summary judgment is **GRANTED** as to Counts I, II and III of the Amended Complaint, that two of three Challenged Conditions (prison access and advance) are invalid as a matter of law. The issues of irreparable harm and relief are reserved for any evidence at trial and further argument after trial.

4. As the City has not moved for partial summary judgment as to Counts IV and V, the Court will hold under advisement the Defendant's motion for summary judgment as to those Counts.

5. As to the various motions in limine, the Court has ruled as follows:

a. Defendant re: Bureau of Prisons or United States Marshals Services
Witness (ECF 169) – Held under advisement pending the testimony of defense witness O'Neill.

b. City re: Gillespie Memorandum (ECF 172) – **DENIED.**

c. Defendant re: Testimony of Gladstein and Farley (ECF 175) – Held under advisement pending receipt of other testimony.

d. City re: Ross, Farley and Gladstein (ECF 178) – Held under advisement pending receipt of other testimony.

6. Objections

a. Defendant's objection to Plaintiff's Exhibit List (ECF 177) – Held under advisement.

b. Defendant's objection to Plaintiff's Transcript Designation (ECF 176) – **DENIED.**

7. Plaintiff's motion for the incorporation of the preliminary injunction transcript into the record of this trial is **GRANTED.**

8. Defendant's Objections to Judicial Notice is **DENIED.** The Court will determine after trial the significance, if any, the prior statements have on the merits.

9. As to the Joint Stipulation of Facts (ECF 179), as discussed at the hearing, the Court will only consider stipulated facts as agreed to by both parties. Proposed stipulated facts as to which either party has submitted comments will not be considered as stipulated and either party is allowed to present evidence on these points.

BY THE COURT:

/s/ Michael M. Baylson

MICHAEL M. BAYLSON, U.S.D.J.

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